



W.P.No.36952 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 09.12.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.36952 of 2024
and W.M.P.Nos.39899 and 39900 of 2024

The Management,
Sam Turbo Private Limited,
Avinashi Road, Neelambur,
Coimbatore – 641062,
Tamil Nadu, India.
Rep by its Managing Director

... Petitioner

vs.

1.The Development Commissioner / Additional Secretary,
(Micro Small and Medium Enterprise) MSME,
'A' Wing, 7th Floor, Nirman Bhavan,
New Delhi – 110 108

2.The Joint Director and Head of Office,
MSME Development and Facilitation Office,
Ministry of MSME, Government of India,
MSME Bhawan, 65/1, G.S.T. Road,
Guindy, Chennai – 600 032

3.M/s. Bharat Heave Electricals Ltd.,
Ranipet, Tamil Nadu – 632 403

4.M/s Reco Process Pumps,
No.208/3B, Idigarai Road,
Coimbatore – 641 022

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of



W.P.No.36952 of 2024

India, to issue a Writ of Certiorarified Mandamus, to quash the Purchase Order Ref No.7300000429 dated 07.06.2024 issued by the 3rd Respondent in favour of the 4th Respondent and to direct the Third Respondent to award the contract in accordance with the terms and conditions stipulated in the tender documents, and the Reverse Auction Terms and Conditions concerning Tender No. 3820876E for the supply of Slurry Pumps for SIPAT FGD Project in favour of the Petitioner.

For Petitioner : Mr.R.Jayaprakash

ORDER

The Writ Petition is filed challenging the purchase order dated 07.06.2024 issued to the 4th respondent by the 3rd respondent.

2. It is seen from the typed-set of papers that the 3rd respondent floated a tender for supply of Slurry Pumps for SIPAT Project. In the reverse auction conducted by the 3rd respondent, the petitioner emerged as L-1 and the 4th respondent was emerged as L-2 and the same was communicated to the petitioner. The 4th respondent filed a writ petition challenging the award of contract in favour of the petitioner before this Court in W.P.No.35873 of 2023 mainly on the ground that the 4th respondent was a Micro and Small Enterprise (MSE) and entitled to the



W.P.No.36952 of 2024

benefit of Public Procurement Policy for Micro and Small Enterprises, 2012. This Court by order dated 24.04.2024 allowed the writ petition by holding that the 4th respondent was entitled to avail benefits conferred by the Ministry for Micro and Small Industries under Section 11 of MSME Act.

3. It is further case of the petitioner that though petitioner emerged as L-1, the petitioner was not made as a party to the said writ petition. Therefore, the order passed in the writ petition in favour of the 4th respondent was challenged by the petitioner by filing a writ appeal in W.A.No.2221 of 2024.

4. When the writ appeal came up for hearing, the Division Bench of this Court was informed by the learned Senior Counsel appearing for the 4th respondent therein that work/purchase order was already issued in favour of the 4th respondent. Therefore, the Division Bench of this Court dismissed the writ appeal filed by the petitioner herein as infructuous by granting liberty to the petitioner to challenge the work/purchase order issued in favour of the 4th respondent. The said order was passed by the Division Bench on 22.07.2024. However, the petitioner has not chosen to challenge



W.P.No.36952 of 2024

the work order issued to the 4th respondent immediately. After waiting for nearly 5 months, the present writ petition was filed by the petitioner only on 27.11.2024.

5. A perusal of the work order would indicate that the delivery of Slurry Pumps for SIPAT FGD should be made by 4th respondent by 07.01.2025. The purchase order was issued to the 4th respondent on 07.06.2024. The petitioner was granted liberty to challenge the purchase order on 22.07.2024. As per the purchase order, the 4th respondent has to deliver the product by 07.01.2025. When the delivery date is nearly due, the petitioner has chosen to challenge the purchase order after lapse of considerable time. Absolutely, there is no explanation on the part of the petitioner in filing the writ petition with a delay of 5 months. The averments in the writ affidavit would indicate that copy of purchase order dated 07.06.2024 issued to 4th respondent, was furnished to the petitioner during hearing of writ appeal (i.e., 22.07.2024). If petitioner is really interested in challenging purchase order issued to 4th respondent, the petitioner should have filed writ petition immediately after disposal of writ appeal with liberty.



W.P.No.36952 of 2024

6. By virtue of delay on the part of the petitioner in challenging the work order, a valuable right accrued to the 4th respondent. Certainly, the 4th respondent would have started manufacturing of the product, as the delivery date is fixed as 07.01.2025. At this belated stage, this Court is not inclined to entertain the writ petition filed by the petitioner.

7. Accordingly, the writ petition is dismissed on the ground of laches. No costs. Consequently, the connected writ miscellaneous petitions are closed.

09.12.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm

To

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(Micro Small and Medium Enterprise) MSME,
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New Delhi – 110 108

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W.P.No.36952 of 2024

S.SOUNTHAR, J.

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W.P.No.36952 of 2024

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